

1 Yitai Hu (SBN 248085) (yitai.hu@alston.com)
2 Sean P. DeBruine (SBN 168071) (sean.debruine@alston.com)
3 C. Augustine Rakow (SBN 254585) (augie.rakow@alston.com)
4 **ALSTON + BIRD LLP**

5 Two Palo Alto Square
6 3000 El Camino Real, Suite 400
7 Palo Alto, California 94306
8 Telephone: 650-838-2000
9 Facsimile: 650-838-2001

10 T. Hunter Jefferson (admitted *pro hac vice*)(hunter.jefferson@alston.com)
11 **ALSTON + BIRD LLP**

12 One Atlantic Center
13 1201 West Peachtree Street
14 Atlanta, Georgia 30309-3424
15 Telephone: 404-881-7000
16 Facsimile: 404-881-7777

17 Attorneys for Plaintiff and Counterdefendant
18 ELAN MICROELECTRONICS CORPORATION

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN JOSE DIVISION

22 ELAN MICROELECTRONICS
23 CORPORATION,

24 Plaintiff,

25 v.

26 APPLE, INC.,

27 Defendant.

28 Case No. 09-cv-01531 RS

**DECLARATION OF SEAN P.
DEBRUINE IN SUPPORT OF ELAN
MICROELECTRONICS
CORPORATION'S OPENING CLAIM
CONSTRUCTION BRIEF**

DATE: June 23, 2010

TIME: 1:30 p.m.

JUDGE: Richard Seeborg

CTRM: Courtroom 3, 17th Floor

29 AND RELATED COUNTERCLAIMS

1 I, Sean P. DeBruine, declare as follows:

2 1. I am a partner in the law firm of Alston & Bird LLP, counsel to Plaintiff Elan
3 Corporation (“Elan”) in this action. I have personal knowledge of the following facts, except as
4 otherwise stated. If called to testify, I could and would testify competently to the matters stated
5 herein.

6 2. Attached as Exhibit A is a true and correct copy of U.S. Patent No. 5,825,352.

7 3. Attached as Exhibit B is a true and correct copy of U.S. Patent No. 5,764,218.

8 4. Attached as Exhibit C is a true and correct copy of the text of an article appearing in
9 the April, 1992 edition of Computer Shopper magazine entitled “Whatever Happened to the
10 Gavilan Mobile Computer?” retrieved from the Dialog periodical database. (ELN016902 –
11 ELN016904).

12 5. Attached hereto as Exhibit D is a true and correct copy of UK published patent
13 application GB 2139762 A to Prosenko, *et al.*, assigned to Gavilan Computer Corp.

14 6. Attached as Exhibit E is a true and correct copy of U.S. Patent No. 7,274,353.

15 7. Attached as Exhibit F is a true and correct copy of U.S. Patent No. 7,495,659.

16 8. Attached as Exhibit G are true and correct copies of pages from the transcript of the
17 April 1, 2010 deposition of Brian Von Herzen, Ph.D.

18 9. Attached as Exhibit H is a true and correct copy of an Office Action dated October
19 24, 1996 from the prosecution history of U.S. Patent No. 5,764,218.

20 10. Attached as Exhibit I is a true and correct copy of an Amendment dated December,
21 26, 1996 from the prosecution history of U.S. Patent No. 5,764,218.

22 11. Attached as Exhibit J is a true and correct copy of the Notice of Allowability dated
23 March 7, 1997 from the prosecution history of U.S. Patent No. 5,764,218.

24 12. Attached as Exhibit K is a true and correct copy of the Claim Construction Order
25 issued April 6, 2007 in the case of *Elantech Devices Corp. v. Synaptics, Inc.*, Case No. C 06-
26 01839, Dkt. 91.

27 //

1 13. Attached as Exhibit L is a true and correct copy of Elantech Devices Corp.'s Reply
2 Claim Construction Brief for U.S. Patent 5,825,352, dated February 21, 2007, filed in the
3 *Elantech v. Synaptics* case.

4 I swear under penalty of perjury under the laws of the United States of America that the
5 foregoing is true and correct. Executed on May 7, 2010, at Palo Alto, California.

/s/ *Sean P. DeBruine*

Sean P. DeBruine

LEGAL02/31906047v1